

REMARKS

In the Office Action dated May 15, 2008, claims 74-89 and 90-113 are pending. Claims 74-89 are withdrawn from consideration as directed to non-elected subject matter. The Examiner states that in light of the submission of new claims 90-113 in the amendment filed on May 3, 2007, particularly the limitations in new dependent claims 97-105, the following species restriction is required.

With respect to glucosidase II, the Examiner requires an election between (a) fungal glucosidase II and (b) mammalian glucosidase II. The Examiner contends that the species are independent or distinct because they are structurally distinct. In addition, the Examiner is of the opinion that these species are not obvious variants of each other.

Further, the Examiner requires an election of a single promoter recited in the Markush group of claim 105, which is operably linked to a nucleotide sequence coding for glucosidase II or a functional part thereof. The Examiner contends that the recited promoter species are structurally distinct as well as having different properties one from the others. Further, the Examiner contends that the species are not obvious variants of each other.

In order to be fully responsive to the Examiner's requirement for restriction, Applicants provisionally elect a fungal glucosidase II, and a GAP promoter (recited in claim 103¹). Presently claims 97-98 and 100-103 are generic to the elected fungal glucosidase II, and claim 99 recites a particular species of fungal glucosidase II. Further, claims 102-103 are generic to the elected GAP promoter.

Applicants respectfully submit that both fungal glucosidase II and mammalian glucosidase II are suitable species for making a genetically engineered strain of the present

¹ Claim 105 does not recite a Markush group of promoters.

invention. Similarly, the promoter of a GAP gene is merely one example of the promoters suitable for directing the expression of a glucosidase II in a strain as presently claimed. Applicants respectfully submit that the different species of glucosidase II enzymes and different promoter species are merely different aspects of one single invention. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the requirement for restriction and provide an action on the merits with respect to all species.

Applicants respectfully submit that a determination to make the pending restriction requirement final must evidence the patentable distinctness of the species, one from the other, as presented by the Examiner.

Finally, Applicants respectfully submit that no Office Action on the merits has issued since Applicants' Response filed May 3, 2007. Accordingly, an early action and allowance are earnestly solicited.

Respectfully submitted,



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